

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

VERNON JAMES HILL,)	
)	
Petitioner,)	
)	
vs.)	Case No. CIV-05-231-T
)	
LENORA JORDAN,)	
)	
Respondent.)	

REPORT AND RECOMMENDATION

Petitioner, a state prisoner appearing pro se, initiated this action on February 25, 2005, by filing a petition for a writ of habeas corpus pursuant to 28 U.S.C. §2254. United States District Judge Ralph Thompson has referred the matter to the undersigned Magistrate Judge for initial proceedings consistent with 28 U.S.C. §636(b)(1)(B). For the reasons set forth herein, the undersigned recommends that the petition be dismissed without prejudice.

By order dated March 3, 2005, the undersigned advised Petitioner that he had neither paid the \$5.00 filing fee nor submitted an application to proceed in forma pauperis. Petitioner was advised that unless he paid by the \$5.00 filing fee or was granted leave to proceed in forma pauperis on or before March 18, 2005, this action would be subject to dismissal without prejudice.

A review of the court file reveals that Petitioner has not paid the filing fee, filed a motion for leave to proceed in forma pauperis or demonstrated good cause for his failure to do so. Thus, the action is subject to dismissal without prejudice to refiling. Local Civil Rule 3.3(e).

RECOMMENDATION

Accordingly, the undersigned recommends that the petition for a writ of habeas corpus be dismissed without prejudice to refiling due to Petitioner's failure to pay the filing fee. The Petitioner is advised of his right to file an objection to this Report and Recommendation with the Clerk of this Court by the 19th day of April, 2005, in accordance with 28 U.S.C. §636 and Local Civil Rule 72.1. The Petitioner is further advised that failure to make timely objection to this Report and Recommendation waives his right to appellate review of both factual and legal questions. Moore v. United States, 950 F.2d 656 (10th Cir. 1991). This Report and Recommendation disposes of all issues referred to the undersigned Magistrate Judge in the captioned matter.

ENTERED this 30th day of March, 2005.



DOYLE W. ARGO
UNITED STATES MAGISTRATE JUDGE